

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

Case No. 5:20-MJ- 425 (TWD)

RICHARD J. POTTER, JR.,)

Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of 2018 to the present in the county of Onondaga in the Northern District of New York the defendant violated:

Code Section

Title 18, United States Code, Section 2252A(a)(2)(A) and Title 18, United States Code, Sections 922(g)(1) and 924(a)(2)

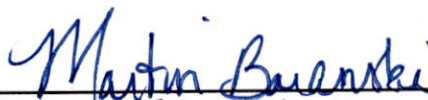
Offense Description

Receipt of Child Pornography and Possession of a Firearm by a Prohibited Person

This criminal complaint is based on these facts:
See attached affidavit

☒ Continued on the attached sheet.

ATTESTED TO BY THE APPLICANT IN
ACCORDANCE WITH THE
REQUIREMENTS OF RULE 4.1 OF THE
FEDERAL RULES OF CRIMINAL
PROCEDURE.




Complainant's signature

Martin Baranski, Special Agent

Printed name and title

Date: August 24, 2020



Judge's signature

City and State: Syracuse, New York

Hon. Thérèse Wiley Dancks, U.S. Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Martin Baranski, being duly sworn, depose and state:

1. I am a Special Agent employed by the United States Department of Justice, Federal Bureau of Investigation (FBI), and as such I am an “investigative or law enforcement officer” of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Chapter 63. I have been a Special Agent with the FBI since October of 2018. I am currently assigned to the FBI’s Albany Division where I investigate all federal criminal violations. I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252 and 2252A. I have received training in the area of child sexual exploitation and have had the opportunity to observe and review examples of child pornography in all forms of media including computer media.

2. This affidavit is submitted in support of a criminal complaint and arrest warrant charging Richard J. Potter, Jr. with receipt of child pornography in violation of 18 U.S.C. § 2252A(a)(2)(A), and possession of a firearm by a prohibited person in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2).

3. The statements and facts set forth in this affidavit are based on my personal observations, my training and experience, and information obtained from other agents, law enforcement officers, and witnesses. This affidavit is intended to show that there is sufficient

probable cause for the requested complaint and arrest warrant and does not set forth all of the facts known by me about this investigation.

PROBABLE CAUSE

4. On July 14, 2018, the National Center for Missing and Exploited Children ("NCMEC") generated CyberTips 36547963, 36547727, 36548359, and 36548163 based on information reported to NCMEC by Google. NCMEC then reported the Cybertips to the Internet Crimes Against Children ("ICAC") Albany office. The CyberTips related that a Google user subscribed under the name Richard Potter; telephone number XXX-XXX-5578; e-mail address richardpotterXX@yahoo.com had transmitted images of child pornography through Google servers. The four CyberTips reported a total of 451 files uploaded through Google servers by the user of the account.

5. Criminal history checks for Richard J. Potter Jr. revealed a felony conviction of Sodomy 3rd in New York State involving a victim under the age of 16. Furthermore, Richard J. Potter, Jr. is listed in the New York State Sex Offender Registry, classified as a Risk Level 1, with a registered address in Springport, NY and a phone number of XXX-XXX-5578.

6. On January 14, 2019, New York State Police (NYSP) Investigator Brett Stover obtained a search warrant for Potter's residence in Springport, NY from the Hon. Thomas G. Leone of the Cayuga County Court. On January 23, 2019, members of the New York State Police executed the search warrant, and numerous items of evidence were secured.

7. Shortly after execution of the search warrant, Richard J. Potter, Jr. was transported to the NYSP barracks by Investigator Stover and Investigator Gregory Cool. Potter was issued his *Miranda* Rights, advised that he understood them, and agreed to be interviewed without an

attorney present. In sum and substance, Potter stated that he lives at the premises searched in the town of Springport, NY with his father and his girlfriend. Potter confirmed that his email address is richardpotterXX@yahoo.com. He stated that he uses the internet daily and primarily uses the computer in his room for the purpose of pornography searches. He stated that his searches include but are not limited to “naked teens,” “girlfriend galleries,” “watchers web,” “i post naked,” and “young heaven.” He stated that sometimes during those searches, he would accidentally click on images that he believed to be child pornography. He advised that he would close the image out, and denied saving the images.

8. The computers, media, and other devices seized pursuant to the search warrant were reviewed by the New York State Police Computer Crimes Unit. The results of the review revealed the presence of thousands of images and videos of child pornography contained on several devices belonging to Potter.

9. One of the items seized during the search warrant and reviewed was an LG cellular phone, model LGL62VL, IMSI 311480304962744. The examination of the phone indicated an associated phone number of XXX-XXX-5578, consistent with the New York State Sex Offender Registry phone number for Potter. In addition, there was evidence of user richardpotterXX@yahoo.com being logged into the Google Photos application on the phone. Contained within the phone’s memory were over 50 videos that consist of the recording of child pornography on a computer screen. Based upon review of the videos, your affiant believes that Potter used this phone to record child pornography that he accessed via the internet on his computer. For example, your affiant reviewed a video titled “1111180919.mp4” created on 11/11/2018, approximately 75 seconds in length. The video depicts the recording of videos playing

on an "HP" branded computer screen. Based upon review of the search warrant photos, your affiant believes that the computer screen being recorded was Potter's Hewlett Packard (HP) All-in-One computer, which was discovered in Potter's room.

10. The video titled "1111180919.mp4" found on the LG phone and reviewed by your affiant depicts two videos playing in a gallery-type format within the Microsoft Edge web browser. The two videos playing from top to bottom as the web page on which they are displayed is being scrolled, include 1) an approximately 8-year old nude female on a bed digitally penetrating the vagina of a nude adult female, and 2) an approximately 4-year old nude female inserting her entire hand into the vagina of an adult female, who is lying on a bed. At one point the recording cuts away from the screen, at which time your affiant observed what appears to be a web address in the Microsoft Edge browser, but the exact address could not be determined. Based on your affiant's training and experience, the recording appears to display a webpage that was accessed via the Internet.

11. In addition to the videos, there were also thousands of images of child pornography found on the LG cellular telephone. The images were consistent with the videos, in that they were pictures of a computer screen, on which was displayed child pornography. Included in the image is again a computer screen, as well as the Microsoft Edge web browser in which the image is being displayed. The web browser tab in which this image is displayed appears to include a web address, "hottoto.bid/in.php", with a web page title displayed in the tab of "Young Little Girlies." Another tab open in the Microsoft Edge web browser depicted in the image has the title of "PussyChild 6."

12. During the search of Potter's residence on January 23, 2019, a Mossberg, Model

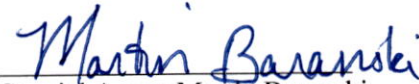
500 ATP, 12-gauge shotgun was also recovered. When asked about the shotgun during his interview with NYSP on the day of the search, Potter admitted ownership of the gun.

13. The shotgun was subsequently submitted to the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for analysis. ATF's analysis of the shotgun determined that the shotgun was a "firearm" as defined by 18 U.S.C. § 921(a)(3), and that it was manufactured in Connecticut, and therefore had been shipped or transported in interstate or foreign commerce prior to its arrival in the State of New York.

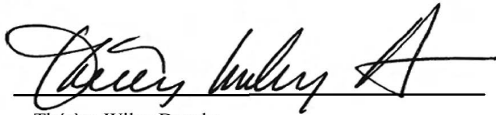
CONCLUSION

14. Based on the foregoing information, there is probable cause to conclude that Richard J. Potter, Jr. knowingly received child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce, in violation of Title 18 U.S.C. § 2252A(a)(2)(A), and that he unlawfully possessed a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.


Special Agent Martin Baranski
Federal Bureau of Investigation

I, the Honorable Therese Wiley-Dancks, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on August 24, 2020, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.


Thérèse Wiley Dancks
United States Magistrate Judge